

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATE OF PROMULGEMENT: MAY 29, 1992

RE: ON

THE HON'BLE MR. JUSTICE K. A. HALLIKARJUNA

H.K.J. No. 1292/86

BETWEEN:

1. N. Ramaprasad (since dead)  
by his L.Rs.

(a) R. Indrakumar,  
(b) K. Umashany,  
(c) R. Bhaskar,  
(d) R. Srinivasulu.

1(a) to 1(d) are the sons of  
late N. Ramaprasad (petitioner No.1),  
Major, C/o M/s Vijayalakshmi  
Industries, Old No. 35, New  
No. 35, St. John's Church Road,  
Bangalore-560 005.

PETITIONERS

(By Advocate Sri. M.S. Prabhakar)

AND

C.N. Kumar s/o late C.R. Nanjappa,  
Major, No. 40, Hospital Road,  
Civil Station, Bangalore-560 001.

RESPONDENT

(By Advocate Sri. Mohandas N. Hegde)

This Revision Petition is filed under  
Sec.50(1) of the Karnataka Rent Control Act, 1961  
against the order dated 21.3.1992 passed in HR  
No.1292/86 on the file of the Small Causes Judge,  
Bangalore, following the petition filed under  
Sec.21(1)(p) of the Karnataka Rent Control Act.

The petition coming on for hearing  
along with C.A. 111, having reserved for orders,  
made the following:

for

ORDER

This is a tenant's revision under Sec.50(2) of the Karnataka Rent Control Act (hereinafter referred to as 'The Act' for short). Addl. Small Causes Judge, Bangalore on March 21, 1992 while rejecting the claim of the land-lord for eviction under Sec.21(1)(a) and (j) of the Act in HRC.No.1897/86 directing<sup>ed</sup> the eviction of the tenant under Sec.21(1)(p) of the Act. This order is under challenge in this revision petition.

This revision is filed on April 15, 1992 and it would appear that in the mean time on April 2, 1992 tenant N Ramaprasad died and therefore this revision petition is filed along with the application I.A.I under Order-22 Rule-4 R/W 151 C.P.C. with a prayer to bring the L.Rs. (4 sons) of the deceased revision-petitioner on record in place of the tenant. I would refer to the petitioner-landlord and respondent-tenant (deceased) as they were arrayed in the eviction petition, as land lord and tenant for the purpose of convenience.

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2. The land is brought into possession of the tenant from the year 1958. The land is situated in the North of the Church Road, Bangalore city bounded on the west by Netaji Road, south by St. John's road and east and west by private property. Premises was leased for the purpose of running an industry. Though the tenant resisted the petition contending inter-alia that there exists no relationship of landlord and tenant, did not press it at the trial as I could see from the record.

3. It is undisputed that the land-lord is the absolute owner of the property in question though in fact it was purchased by his father on behalf of the minor somewhere in the year 1957. Ex.P-1 is the sale deed. Tenant took it on lease in the year 1958 for running an industry under the name and style 'Vijayalakshmi Industries'. It is also not disputed that somewhere in the year 1974 certain portion measuring 10' x 40' from out of the vacant area in the disputed premises was taken over by the Corporation of the City of Bangalore for widening the Church Road. It is also undisputed that the tenant purchased

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not available for the purpose of carrying on the business which he started and continued in the disputed premises.

4. Land-lord examined himself as PW-1 and produced documents Exs P-1 to 37. Tenant on any one of his sons are not examined, it is only the manager who is examined as RW-1 and documents Exs R-1 to 20 were marked on behalf of the tenant. Learned trial Judge on hearing the counsel for both the parties and considering the evidence both oral and documentary by the impugned order rejected the claim of the land-lord under Sec.21(1)(a) and (j) but directed eviction of the tenant under Sec.21(1)(p) of the Act holding that the acquisition of the building during the pendency of the tenancy is available for the purpose of running the industry, the business which is carried on in the disputed premises. It may be noted here that the land-lord in evidence conceded that he would not press his claim for eviction under Sec.21(1)(a) of the Act and that was also not pressed at the hearing.

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to the tenant's own business and the  
 record is on par with the landlord's  
 land independent.

6. The main thrust of the argument of the  
 learned counsel for the tenant is that the court  
 has erred in not recording a finding whether the  
 new premises are 'suitable' and an alternate  
 accommodation for carrying on the business which  
 was carried in the disputed premises and  
 therefore the order is liable to be set aside.  
 He also relied on the decision of this court in  
 FAKIRANA Vs. CHAKRABARTY (11 B.L. 198(2)  
 AIR. 1909).

Learned counsel for the landlord  
 respondent on the other hand contended that not  
 only there is enough pleading in regard to the  
 suitability or otherwise of the alternate  
 accommodation available to the tenant, but  
 sufficient evidence is placed on record to  
 establish that the acquisition by the tenant is a  
 suitable building and since the tenant has  
 alternate accommodation for carrying on industry  
 is liable to be evicted. He also relied on two  
 decisions of this court in KANNANTHAN AND VS.

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10. As I have said earlier, it is no longer a question of the respondent is not a disputed vacant site measuring much more in area than the disputed premises in Kachay Landfill, put up a best case a permanent building on the said land (100 ft. x 100 ft. or 10,000 sq. ft.) and started an industry in the said building. The distance is only in terms of the distance from the disputed premises. What emerges from the evidence of PW 1 is that the leased premises measured only 5000 square feet out of which 4000 square feet has been taken by the municipality for widening the main road where the land acquired is 10000 sq. ft. ~~measuring~~ <sup>2400</sup> 1400 square feet and building is put up in an area of 17000 square feet consisting of two floors built in an area measuring 1400 square feet with concrete roof and the rest is of asbestos sheet roof. It has also come in his evidence that immediately after the construction in about 1981-84 80% of the machinery were shifted from the leased premises and are now functioning. His evidence is that certain ~~activity~~ <sup>activity</sup> electroplating is being continued in the disputed premises and the office and the crew room are also located in the

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The study was conducted by a team of researchers. The results of the study are presented in the following table.

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It is a common knowledge that the  
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 adaptation to the environment. The  
 third principle is that the mind is  
 a process of learning from experience.  
 The fourth principle is that the  
 mind is a process of self-organization.

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